

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION NO. 3178 of 1996****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE S.R.BRAHMBHATT**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?
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SHREEJI STONE QUARRY....Petitioner

Versus

GOVERNMENT OF GUJARAT & 2....Respondents

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Appearance:

MR PC KAVINA, ADVOCATE for the Petitioner.

MS. V.S. PATHAK, LD. AGP for the Respondents No. 1 - 3

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CORAM: HONOURABLE MR.JUSTICE S.R.BRAHMBHATT**Date : 20/12/2013****ORAL JUDGMENT**

1. This matter was called out twice. On both the occasions none has remain present for the petitioner. Learned AGP is present. On perusing memo of the petition as well as the annexures, it appears that the controversy is very old and now might have not been surviving. However, the Court is of the view that this matter is required to be disposed of as it appears that substantive challenge was against issuance of notice dated 11/4/1996.
2. The facts in brief as could be gathered from memo of the petition indicate that the petitioner was a registered partnership firm. The petitioner was granted lease under Gujarat Minor Mineral Rules 1966 in Survey No. 162 of Village Sonarpadam, admeasuring One Hectare. It was originally granted for 10 years on 24/5/1991 and was renewed on 25/5/1991 for further period of ten years. The dead rent as it is submitted was increased in the year 1970 and aggrieved persons like the petitioner had challenged the same by way petitions which came to be disposed of vide judgment & order dated 24/10/1980 whereby the dead rent increased was set aside and State was ordered not to enforce Rule. 21-B and the Notification of 1979 where under dead rent was increased. This judgment was reported in 21(2) G.L.R. pg. 530. Being aggrieved by the judgment, certain parties had moved Supreme Court by way of Special Leave Petitions which were converted into regular appeals on leave being granted in the writ petition No. 1656 of 1983 and companion matters as Civil Appeal No. 706 of 1981 and companion matters, and same were disposed of by the Supreme Court vide order in judgment dated 5/3/1986 where the matter was referred back to Gujarat High Court. It was said that levy of dead rent was approved and circular issued pursuant to the judgment of the Division Bench of Gujarat High Court was said to be invalid and State was directed to recover dead rent and royalty in

accordance with Notification dated 26/3/1979 and to calculate the period between 1/4/1970 and 19/6/1981 for the purpose of collection or recovery of dead rent. Therefore the petitioners who had approached the Court and received judgment were required and liable to pay dead rent as per the order of the Supreme Court.

3. Petitioner had averred that in the meantime there was amendment in Minor Mineral (Amendment) Rules 1981 vide Notification dated 20/6/1981 and Rule. 21-B which permitted levy of dead rent came to be deleted after 20/6/1981 and no dead rent was to be charged.
4. Thus the controversy appears to be revolving around levy and interest of dead rent for the period in question. The Court is of the view that the matter is required to be disposed of as on account of afflux of time the cause might not have been surviving. However liberty is required to be reserved to all the parties to approach the Court in case of difficulty.
5. With the aforesaid observations, the petition is dismissed. Rule discharged. Interim relief if any granted earlier shall stand vacated. However there shall be no order as to costs.

(S.R.BRAHMBHATT, J.)

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